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Identical letters dated 6 February 2001 from the Permanent Representative of Bosnia and Herzegovina to the United Nations addressed to the Secretary-General and to the President of the Security Council

I have the honour to present to you a letter dated 5 February 2001, from His Excellency Mr. Ante Jelavić, Croat Member of the Presidency of Bosnia and Herzegovina (see annex), addressed to you. Kindly circulate the present letter and its annex as a document of the Security Council.

(*Signed*) Muhamed **Sacirbey**
Ambassador
Permanent Representative

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Annex to the identical letters dated 6 February 2001 from the Permanent Representative of Bosnia and Herzegovina to the United Nations addressed to the Secretary-General and to the President of the Security Council

The democratically elected leadership of the Croat constituent community in Bosnia and Herzegovina should like refer to the recent decision by the Mission of the Organization for Security and Cooperation in Europe (OSCE) to Bosnia and Herzegovina (BiH) which revised the election rules and procedures in respect of the national elections held on 11 November 2000.

This decision represents a legal and constitutional precedent — a clear violation of the General Framework Agreement for Bosnia and Herzegovina (DPA), and a gross affront to the equality of one of the constituent peoples in BiH. Moreover, the decision may become a major source of instability in the country, because it attempts to illegally, and by fiat, change the internal organization of BiH, and thereby, the whole concept of sharing of power established by the DPA.

For two years now, we have been alerting the international community that the Croat community in BiH has been turning away from the Dayton-Paris agreement (DPA) in substantial numbers. The United States Information Agency has measured this drop in support from two in three to only one in three. This is significant, since the support in the other two constituent communities, the Bosniaks and the Serbs, has remained high and notably increased, respectively, according to the same source.

This gloomy statistic is further confirmed on the ground. Since the signing of the DPA, the Croats have left BiH in largest numbers, and as refugees and displaced persons returned in the smallest numbers. This is all the more troubling, when its leadership has been most forthcoming in this respect, and has returned the largest proportion of minorities into the Croat-majority areas. The Croats have returned 38 per cent of minorities, the Bosniaks 10 per cent and the Serbs 4 per cent.

This leadership has sought to engage the international community in a dialogue, to find ways to stop and reverse this negative trend, and to integrate the Croat community into Bosnia and Herzegovina as an equal to the two other communities — a right ingrained in our common Constitution. Various steps have been taken, including two letters to your predecessor, of 29 February 2000 (S/2000/170 of 2 March 2000), and of 23 March 2000 (S/2000/248 of 23 March 2000). Unfortunately, our calls have gone unanswered, and the high international authorities in Bosnia and Herzegovina continue to interpret and implement the already unbalanced DPA to the continuing detriment of the constituent community this leadership was elected to represent.

The above-mentioned OSCE decision on the mode of electing Croat representatives to the House of Peoples of the Federation of Bosnia and Herzegovina deprives the Croat nation of its by the Constitution enshrined constitutivity and of its right to elect its own representatives to this institution for the protection of vital national interests. This represents a kind of a precedent as no similar mechanism in the world, particularly including the principle of the "Alarm Bell" in the Kingdom of Belgium, does not enable the representatives of one nation to influence the election of the representative of another nation to the bodies of the protection of vital national interests. Unless the Provisional Rules and Regulations

from the Election Law for BiH are harmonized and unless they take the direction of standardization of rights of the nations in the electoral process, Croats will in a very short time be turned from a constituent nation into a national minority.

The representative of the OSCE in Bosnia and Herzegovina, Ambassador Robert Berry, has said that the decision is "unconstitutional, but democratic". This obvious contradiction reinforces the legitimacy of our plight and demands. It clearly points to the problem that lies in the DPA itself and its necessary reformulation, in the direction of equality and standardization of rights and political institutions for all three communities.

The fact that the Constitutional Court of BiH expressed itself as non-competent for assessing the constitutional status of the OSCE Decision on the mode of electing representatives to the House of Peoples speaks in favour of our justified attempts to point out to the inconsistency and wrong direction of the implementation of Dayton Peace Agreement. That is another proof of the tendency to change fully the political concept agreed upon in Dayton. The disruptive meddling of some parts of the international community into everyday political events and creation of post-election coalitions is an integral part of that political concept which represents a blow at the basic of the Dayton Agreement — the equality of three constituent nations in the political life and BiH institutions. The ethnical principle in the process of government formation on behalf of democratic principle and individual rights, included in Dayton Agreement, is totally neglected. In our concrete case, the political will of almost the whole Croat nation corpus in BiH is being neglected, what represents at the same time the violation of the BiH Constitution.

This communication is a legitimate protest, and in no way should it be viewed as an affront to the territorial integrity and political independence of Bosnia and Herzegovina, nor to the co-sovereignty of neither of its two other constituent communities, nor to the original noble intentions of the international community. It is made, however, with the sincere hope that it will finally spur the first efforts to interpret and implement the DPA in a manner that will protect and standardize the constituency of the Croat community, for the benefit not only of that community, but also of Bosnia and Herzegovina, its neighbours and its friends.

We would like once again to point out the fact that the only possible way of changing the Dayton Agreement is the same way in which it was created — by the will of three constituent nations or by a new international conference. For this reason, we are of the view that the Security Council should debate the opportunity to mandate a conference to review the implementation of the Dayton Peace Accords and necessary revision thereto. For this purpose, we would request a meeting of the Security Council at the earliest possible time.

(*Signed*) Ante **Jelavić**
Croat member of Bosnia and Herzegovina Presidency